

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARLOS GASPAR RAMIREZ,

Plaintiff,

-against-

WARDEN SMITH; DEPUTY OF SECURITY
CAPUTO; ASSISTANT DEPUTY WARDEN
OF SECURITY SANCHEZ; CAPTAIN OF
SECURITY KINLOCH,

Defendants.

18-CV-0283 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

By order dated August 19, 2019, the Court granted Plaintiff Carlos Gaspar Ramirez leave to file a second amended complaint to provide enough facts to support his conditions-of-confinement, excessive force, and unlawful search claims. On August 20, 2019, the Clerk of Court mailed that order to Plaintiff at the Anna M. Kross Center (AMKC) on Rikers Island. On September 10, 2019, the New York City Department of Correction returned that order to the Court, indicating that Plaintiff was discharged from AMKC. A search of the records of the New York State Department of Corrections and Community Supervision (DOCCS) revealed that Plaintiff was incarcerated in Ulster Correctional Facility in Napanoch, New York, and on September 19, 2019, the Court mailed the August 19, 2019 order to Plaintiff at Ulster Correctional Facility.¹

¹ The order mailed to Plaintiff at Ulster Correctional Facility has not been returned to the Court.

On October 3, 2019, the Court received a letter from Jose Joaquin Ramirez, who is not an attorney and not party to this action, requesting to intervene on Plaintiff's behalf. In the letter, Mr. Jose Ramirez informed that Court that he intends to assist Plaintiff with preparing his second amended complaint. He further informed the Court that Plaintiff is now incarcerated in the Gowanda Correctional Facility.² Mr. Ramirez also sought an extension of time on Plaintiff's behalf.

By order dated October 4, 2019, the Court denied Mr. Ramirez's request to intervene because he is not an attorney and not a party to this action. That order again advised Plaintiff that it is his obligation to promptly submit a written notification to the Court if his address changes, and that the Court may dismiss the action if Plaintiff fails to do so. The Court granted Plaintiff an extension of time until December 19, 2019, to comply with the Court's August 19, 2019 order. That order specified that failure to comply would result in dismissal of the amended complaint. The Court's October 4, 2019 order was mailed to Plaintiff at Gowanda Correctional Facility.³

Plaintiff has not filed a second amended complaint. Accordingly, the amended complaint, filed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a)(1), is dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii).

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

² A search of DOCCS's records confirmed this information.

³ The order mailed to Plaintiff at Gowanda Correctional Facility has not been returned to the Court, and according to DOCCS records, Plaintiff remains incarcerated there.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED

Dated: January 6, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge